

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MILLER WEISBROD, LLP, et al.,**

**Plaintiffs,**

**v.**

**KLEIN FRANK, P.C.,**

**Defendant.**

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**CIVIL ACTION NO. 3:13-CV-2695-B**

**DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Defendant Klein Frank, P.C. (Klein), submits this Motion for Summary Judgment against Plaintiffs James E. Girards, James E. Girards, P.C. d/b/a The Girards Law Firm (collectively “Girards”) pursuant to F.R.Civ. P 56 on the Girard’s claim for 15% of the attorneys fees based upon an alleged verbal agreement.

The Girards’ claim based upon an alleged verbal co-counsel agreement fails as a matter of law because co-counsel agreements must be approved by the client in writing. There is no writing approving the unconscionable verbal contract terms alleged by Girards. Girards failed to state a claim upon which relief can be granted with respect to an alleged contract, and any such claim must be dismissed as matter of law.

The matters required by LR 56 will be set forth in the Memorandum Brief.

Conferral is not required pursuant to LR 7.1.

Wherefore, for the reasons set forth in this Motion and in the Memorandum Brief filed in support thereof, Defendant requests that Girard’s claims for 15% of the attorneys fee based upon contract theory be dismissed.

DATED this 22nd day of November, 2013.

Respectfully submitted,

/s/ Beth Klein  
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Attorney for Defendant

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing was served upon the following attorneys of record on this, the 22nd day of November, 2013, by way of ECF filing.

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/s/ Beth Klein  
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